

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:21-CV-506-KDB-DCK**

HONEYWELL INTERNATIONAL INC.,)	
METROLOGIC INSTRUMENTS, INC., and)	
HAND HELD PRODUCTS, INC.,)	
)	
Plaintiffs,)	ORDER
)	
v.)	
)	
OPTO ELECTRONICS CO., LTD.,)	
)	
Defendants.)	
)	

THIS MATTER IS BEFORE THE COURT regarding multiple discovery disputes. See (Document No. 114). These disputes were referred to the undersigned Magistrate Judge by the Honorable Graham C. Mullen on November 7, 2022, and are ripe for disposition. Having carefully considered the record, the parties’ “Amended Joint Status Report” (Document No. 114), and the arguments of counsel at a hearing on February 15, 2023, the undersigned will grant in part and deny in part the parties’ discovery requests as set forth below.

The undersigned commends counsel for the “Amended Joint Status Report” and their strong oral advocacy that greatly assisted the undersigned’s consideration of the pending disputes. Counsel are respectfully encouraged to work together in good faith to complete discovery in this matter efficiently, and without further Court intervention.

IT IS, THEREFORE, ORDERED that the discovery disputes as identified in the “Amended Joint Status Report” (Document No. 114) are granted in part and denied in part as follows.

Issue 1: Honeywell Seeks OPTO's Non-Privileged Analysis of Honeywell's Patents.

This request is granted. OPTO shall produce the documents collected by Mr. Kohmo as identified during the hearing and in Honeywell's "Brief In Support Of Motion To Compel Discovery" (Document No. 51-1, p. 11).

Issue 2: Honeywell Seeks Production of OPTO's Post-2020 Analysis of Honeywell's Patents.

This request is denied.

Issue 3: Honeywell Seeks the Production of Area-Imager-Based Source Code.

This request is granted.

Issue 4: Honeywell Seeks the Deposition of Masaki Kurokawa.

This request is granted. The deposition of Mr. Kurokawa shall be held in Charlotte, North Carolina, unless otherwise agreed by the parties.

Issue 5: Honeywell Seeks Documents Identified at Kees Stoop's Deposition.

This request is denied.

Issue 6: Honeywell seeks Documentation and Correspondence Regarding OPTO's Independent Auditor's Statements About this Litigation.

This request is granted.

Issue 7: Honeywell Seeks Counsel-Prepared Documents About the Settlement Agreement.

This request is denied.

Issue 8: Honeywell Seeks the Continued Deposition of Mr. Tanaka and Mr. Kohmo.

This request is granted in part and denied in part. Mr. Kohmo shall not be compelled to testify. The deposition of Mr. Tanaka shall be held in Charlotte, North Carolina, unless otherwise agreed by the parties.

Issue 9: Honeywell Seeks the Deposition of Nick Kamio.

This request is granted. The deposition of Mr. Kamio shall be held in Charlotte, North Carolina, unless otherwise agreed by the parties.

Issue 10: Honeywell Seeks OPTO's Technical Documents.

This request is granted. The undersigned expects this production to be narrowed as suggested by counsel at the hearing to what may be a relatively simple chart. Counsel are directed to work together to reach a final agreement on a responsive document(s).

Issue 11: OPTO Seeks Honeywell's Sales Information.

This request is granted. Honeywell shall provide responsive information related to the transactional sales information for Honeywell's "Voyager" products, and "summary sales information" related to Honeywell's sales of laser and image-sensor based barcode scanning products sufficient to establish the quantities and price points at which those products are sold. Counsel are respectfully encouraged to work together to agree on the production of summary sales information that is reasonably narrowed.

Issue 12: OPTO Seeks Guidance as to Extension of Expert Deadlines.

This request is granted. OPTO shall submit its expert report related to the economic prong of OPTO's patent misuse counterclaim within four (4) weeks of Honeywell's production of sales information.

Counsel for the parties shall confer and submit a joint proposal regarding revised case deadlines, including expert reports and the completion of discovery as ordered herein, on or before **March 3, 2023**.

Issue 13: OPTO Seeks Attorney Communications and Attorney Work Product Related to Honeywell's Audit of OPTO's Worldwide Sales.

This request is denied. Honeywell is not required to produce the internal communications between counsel, and/or between counsel and Honeywell, regarding the independent audit.

Issue 14: OPTO Seeks Deposition of Benjamin Pleune.

This request is denied. See Bell v. Kaplan, 2017 WL 9802760 (W.D.N.C. Sept. 8, 2017) (citing Shelton v. Am. Motors Corp., 805 F.2d 1323 (8th Cir. 1986)).

Issue 15: OPTO Seeks Deposition of Scott Stevens.

This request is denied.

Issue 16: OPTO Seeks Reimbursement of Expenses and Protective Order Related to Deposition of Masaki Kurokawa.

This request is denied.

SO ORDERED.

Signed: February 16, 2023



David C. Keesler
United States Magistrate Judge
